

**BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes**

August 17, 2006

A meeting of the Board of Environmental Protection was held on Thursday, August 17, 2006 at the Holiday Inn / Ground Round, Augusta, Maine. Chairman Matt Scott called the meeting to order at 9:00 a.m. with the following individuals present:

Board: Nancy Anderson, Denis Culley, Elizabeth Ehrenfeld, M. Wing Goodale, Donald Guimond, Richard Gould, Ernest Hilton, Virginia Plummer, Matt Scott, and Nancy Ziegler.

Staff: Bureau of Land and Water Quality

Robin Clukey

Others: David P. Littell, Commissioner
Peggy Bensinger, Assistant Attorney General
Cynthia S. Bertocci, BEP Executive Analyst
Terry Hanson, Administrative Assistant

(Meeting adjourned at approximately 12:15 p.m.)

I. DEPARTMENTAL

A. COMMISSIONER'S COMMENTS:

Regional Greenhouse Gas Initiative (RGGI): Model rules were released by the RGGI States. The rules will establish a regional structure to implement RGGI. Maine will use these model rules to get input from regulated parties and the public for development of a draft rule for Legislative review. The Model rule can be made available to BEP members upon request. Commissioner Littell noted that the California business community is generally opposed California's proposed Legislation.

Board member Ernie Hilton asked if other provisions in our current air rules support the RGGI initiative (e.g. trading program).

Commissioner Littell explained that Maine adopted a Climate Change Action Plan which included 54 recommended measures. The Board subsequently adopted rules regarding new motor vehicle emission standards which control greenhouse gas emissions; these rules were one of the measures recommended in the Climate Change Action Plan.

RGGI is focused on achieving emission reductions at large power plants, facilities of 25 megawatts or above. Smaller units or different types of units may be regulated in the future but not under RGGI as proposed. It is important to establish a market for greenhouse gas credits which allows for trading of credits to achieve required CO2 reductions more efficiently. All RGGI states agree that 25% of credits should be allocated for public benefit (energy efficiency projects, consumer rebates). This is yet to be resolved, and it is possible that the generators will want credits to go directly to them. The Legislature could specify that some entity other than DEP manage the credits or rebate program.

Board member Ernie Hilton asked a follow-up question about who would manage the RGGI credit scheme?

Currently an amendment to the Memorandum of Understanding (MOU) among the RGGI states has identified NY as the state to take the lead on a regional organization. (noting that NY has agreed to cover cost for the first 3-years). A corporate entity to manage credit trading will be established next year in compliance with laws governing compacts among states ~ meaning each state will play a large role.

Safe Chemical Use Task Force: The Governor's Safe Chemical Use Task Force met yesterday to identify areas of focus. Initial thinking is that the Task Force will look at the following: 1) what state government is already doing in response to the executive order, and (2) what other states are doing (California, Washington and Massachusetts). Interim reporting deadline is November.

Board member Nancy Ziegler asked about the catalyst for establishing the Task Force?

It is generally acknowledged (environmental and business communities) that the federal toxics control law does not do what it was intended to do regarding exposure to chemicals via household products. Maine may decide to move forward to protect public health and the environment through actions which would include a ban on Decca Brominated Diphenyl ether by 2008. This taskforce would promote the use of environmentally friendly and sustainable practices. For example, Interface Fabrics and Tom's of Maine are economically strong Maine companies moving in this direction.

Board member Elizabeth Ehrenfeld asked about the mission of the Task Force.

The focus is on chemical exposures from consumer products used everyday in homes.

Requests for Public Hearing or Board Jurisdiction:

Maine Central Railroad: The Department received a request for BEP jurisdiction that contained signatures from 179 individuals. This project is for variance to the performance standards governing stormwater management for a 10-acre section of a quarry in Embden. The Department is recommending that the Board consider the question of jurisdiction.

Mark Albare submitted a request for a public hearing concerning construction of a pier, ramp and float on Half Tide Island. The Department did not grant the request for a hearing finding that it did not meet the standard for such action.

Questions:

Board member Virginia Plummer asked for an update on LNG projects.

Pre-application meetings were held and it is anticipated that applications may be filed in September.

Board member M. Wing Goodale asked for an update on municipal bans on the use of outdoor wood boilers.

Outdoor wood boilers often have very high emissions. The Department's early efforts include working with other states to encourage the development of industry standards for these units. Regionally the Department is looking at model rules or Legislation. Commissioner Littell noted that there is a new company in Millinocket that produces an outdoor wood boiler that is one of the cleanest on the market.

- B. CHAIRMAN'S COMMENTS:** Chairman Scott reminded Board members of the site visit to Dragon Products this afternoon and the need to conclude the regular meeting agenda during the morning.
- C. EXECUTIVE ANALYST COMMENTS:** None
- D. BOARD CALENDAR:** Reviewed
- E. DEPARTMENTAL ORDERS:** Reviewed
- F. EXECUTIVE SESSION:** None

II. CONSENT AGENDA ITEMS

Board voted (10-0-0-0) on a motion to approve consent agenda item 1 as presented.

1. BEP Minutes – July 6, 2006 (approval)

Board members Nancy Anderson, Denis Culley, Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Donald Guimond, Ernest Hilton, Virginia Plummer, Matt Scott and Nancy Ziegler voted to support the motion.

Board voted (8-0-2-0) on a motion to approve consent agenda item 2; as modified correcting a formatting error.

2. BEP Minutes – July 20, 2006 (approval)

Board members Nancy Anderson, Denis Culley, M. Wing Goodale, Richard Gould, Donald Guimond, Virginia Plummer, Matt Scott and Nancy Ziegler voted to support the motion. Board members Elizabeth Ehrenfeld and Ernest Hilton abstained.

Board voted (10-0-0-0) on a motion to approve consent agenda items 3 and 4 as presented.

3. MAACO AUTO PAINTING-PIKE BROS, Portland – Administrative Consent Agreement (OC – Toxics Program)

4. WEBBER ENERGY GASOLINE, Southern, Central and Eastern Maine (15-stations) – Administrative Consent Agreement and Enforcement Order (BRWM)

Board members Nancy Anderson, Denis Culley, Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Donald Guimond, Ernest Hilton, Virginia Plummer, Matt Scott and Nancy Ziegler voted to support the motion.

III. Regular Agenda

1. ANTHONY AND ERIN ULIANO // PRIVATE RESIDENTIAL PIER // BAR HARBOR (decision)

Staff: Robin Clukey, Bureau of Land and Water Quality

The Board voted (4-3-0-3-0) on a motion to direct staff to draft a Board Order that denies the application of Anthony and Erin Uliano for a private recreational pier in Bar Harbor; with the new draft order to be considered by the Board at a future Board meeting. The vote was taken pursuant to 38 M.R.S.A. Section 341-D and 480-A et seq.

Board members Nancy Anderson, Ernest Hilton, Virginia Plummer, and Nancy Ziegler voted to support the motion. Board members Elizabeth Ehrenfeld, Donald Guimond, and Matt Scott voted opposed. Board members Denis Culley, M. Wing Goodale and Richard Gould abstained.

BOARD CONDUCTED A SITE VISIT: DRAGON PRODUCTS COMPANY, THOMASTON

Next Regular Board Meeting – Thursday, September 7, 2006 – Holiday Inn, Augusta